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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2013-304

12 **LUCILLE MAE MEARS**
13 **2240 ROMEY LANE**
14 **HAYWARD, CA 94541**

ACCUSATION

15 **Registered Nurse License No. 483111**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about August 31, 1992, the Board of Registered Nursing issued Registered
23 Nurse License Number 483111 to Lucille Mae Mears (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought in this accusation
25 and will expire on March 31, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code (Code) unless otherwise indicated.

2 STATUTORY PROVISIONS

3 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
4 any licensee, including a licensee holding a temporary or an inactive license, for any reason
5 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
7 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
8 licensee or to render a decision imposing discipline on the license. Under section 2811,
9 subdivision (b) of the Code, the Board may renew an expired license at any time within eight
10 years after the expiration.

11 6. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
12 surrender, OR cancellation of a license shall not deprive the Board of jurisdiction to proceed with
13 a disciplinary action during the period within which the license may be renewed, restored,
14 reissued or reinstated.

15 STATUTORY PROVISIONS

16 7. Section 2761 of the Code states, in pertinent part:

17 "The board may take disciplinary action against a certified or licensed nurse or deny an
18 application for a certificate or license for any of the following:

19 "(a) Unprofessional conduct...

20 ...

21 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
22 functions, and duties of a registered nurse, in which event the record of the conviction shall be
23 conclusive evidence thereof."

24 8. Section 2762 of the Code states, in pertinent part:

25 "In addition to other acts constituting unprofessional conduct within the meaning of this
26 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
27 chapter to do any of the following:

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1 FACTS

2 12. On or about April 13, 2012, in Alameda County Superior Court Case No. 136572,
3 *People v. Lucille Mae Mears*, Respondent pled no contest to and was convicted of violation of
4 Vehicle Code section 23152, subdivision (b) (Driving with Blood Alcohol Level of .08 Percent or
5 Greater). The offense occurred in Dublin, California, on January 31, 2011, when Respondent
6 stopped her vehicle in the middle of a restaurant driveway. Witnesses reported that the engine
7 was running and Respondent was partially lying next to the open driver side door. (Respondent's
8 lower body was on the ground while her arms and upper body were in the vehicle.) A blood test
9 taken an hour later showed that Respondent had a blood alcohol content of .24 percent.

10 FIRST CAUSE FOR DISCIPLINE
11 (Substantially Related Conviction)
(Bus. & Prof. Code §§ 2761, subd. (f), and 490)

12 13. Respondent has subjected her registered nurse license to discipline under Code
13 sections 2761, subdivision (f) (Substantially Related Conviction) and 490 (Substantially Related
14 Conviction) because she was convicted of an offense substantially related to a registered nurse's
15 qualifications, functions, and duties, with "substantially related" defined in California Code of
16 Regulations, title 16, section 1444. The circumstances are set forth in paragraph 12 above.

17 SECOND CAUSE FOR DISCIPLINE
18 (Unprofessional Conduct: Use of Alcohol in a Dangerous Manner)
19 (Bus. & Prof. Code §§ 2761, subd. (a), and 2762, subd. (b))

20 14. Respondent has subjected her registered nurse license to discipline under Code
21 sections 2761, subdivision (a) (Unprofessional Conduct) and 2762, subdivision (b) (Use of
22 Alcohol in a Dangerous Manner). The circumstances are set forth in paragraph 12 above.

23 THIRD CAUSE FOR DISCIPLINE
24 (Unprofessional Conduct: Alcohol-Related Conviction)
(Bus. & Prof. Code §§ 2761, subd. (a), and 2762, subd. (c))

25 15. Respondent has subjected her registered nurse license to discipline under Code
26 sections 2761, subdivision (a) (Unprofessional Conduct) and 2762, subdivision (c) (Alcohol-
27 Related Conviction). The circumstances are set forth in paragraph 12 above.
28

1 PRAYER

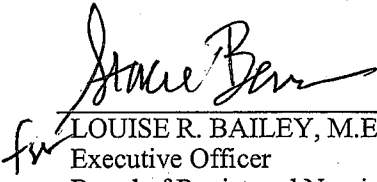
2 THEREFORE, Complainant requests that a hearing be held on the matters alleged in this
3 accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 483111, issued to Lucille
5 Mae Mears;

6 2. Ordering Lucille Mae Mears to pay the Board of Registered Nursing the reasonable
7 costs of the investigation and enforcement of this case, under Business and Professions Code
8 section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10
11 DATED: OCTOBER 18, 2012

12  LOUISE R. BAILEY, M.ED., RN
13 Executive Officer
14 Board of Registered Nursing
15 Department of Consumer Affairs
16 State of California
17 Complainant

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